

PROPOSED RESOLUTION

Resolution W-5038
DWA

AGENDA ID #13889 (Rev. 2)
ITEM #6

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

DIVISION OF WATER AND AUDITS
Water and Sewer Advisory Branch

RESOLUTION W-5038
June 25, 2015

RESOLUTION

(RES. W-5038) LAKE ALPINE WATER COMPANY. ORDER
APPROVING LAKE ALPINE WATER COMPANY'S REQUEST
TO BOOK THE AMOUNT OF \$43,180.34 AS A UTILITY
EXPENSE AND RECOVER IT FROM RATEPAYERS, ON A
METER EQUIVALENT BASIS, THROUGH RATES
APPORTIONED OVER THE COURSE OF MONTHS
REMAINING UP TO NOVEMBER 6, 2015.

SUMMARY

This Resolution approves Lake Alpine Water Company's request to book the sum of \$43,180.34 as an expense of the utility and to fully recover that sum from ratepayers through a water rate surcharge, on a meter equivalent basis, apportioned over the course of months remaining up to November 6, 2015. The requested sum of \$43,180.34 (\$42,517.07 plus interest of \$663.27) is the amount Lake Alpine Water Company paid to the Ratepayers of Lake Alpine Water Company for their contribution to Decision 13-03-007. On November 6, 2014, in Decision 14-11-016, The California Public Utilities Commission awarded the Ratepayers of Lake Alpine Water Company this sum as intervenor compensation and the utility, Lake Alpine Water Company, is allowed one year from the award to recover this sum in customer rates. Therefore, Lake Alpine Water Company has until November 6, 2015 to collect the surcharge. If the outcome of the Limited Rehearing granted in D.15-06-036 changes the amount of compensation, Lake Alpine Water Company is to make the appropriate adjustments to its tariffs and its ratepayers.

There are no safety related issues raised by this Advice Letter or addressed in this Resolution.

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BACKGROUND

Lake Alpine Water Company (LAWC) filed Advice Letter (AL) 105 on March 3, 2015. The request in AL 105 is very simple: LAWC is seeking the authorization of the California Public Utilities Commission (Commission) to book the amount of \$43,180.34 as a utility expense and to recover that amount from its ratepayers by November 6, 2015, through customer rates.

AL 105 has a lengthy and complex litigation history behind the expense recovery request, but this Resolution does not need to address any issue other than whether LAWC is authorized to recover the sum of \$43,180.34 from its water customers through a rate surcharge from the date of this Resolution is approved through November 6, 2015.

The dispute between LAWC and Ratepayers of LAWC (RLAWC) involved the purchase in 2003 by Aspen Forest Investment Company (Aspen) of an interest in LAWC. In Application (A.) 11-04-013, LAWC sought Commission authorization for the Aspen purchase. RLAWC protested A. 11-04-013. The Commission issued Decision (D.) 13-03-007 in March 2013 deciding the issues raised in A. 11-04-013.

Following D.13-03-007, RLAWC filed an Application for Intervenor Compensation seeking recovery for its fees and costs incurred in protesting the Application. On November 6, 2014, the Commission issued D.14-11-016 granting an award of \$42,517.07 (plus interest) to RLAWC, to be paid by LAWC. On December 2, 2014, LAWC paid RLAWC the sum of \$43,180.34.

RLAWC filed an Application for Rehearing to D.14-11-016 appealing both the amount of the compensation award and whether LAWC or Aspen should be the entity paying the award. The Commission reviewed this application and determined in D.15-06-036 that limited rehearing of D.14-11-016 is granted to consider the merits of the determination that RLAWC made a substantial contribution on 25 percent of the matters it raised in the proceeding. The limited rehearing will determine the appropriate out-of-pocket cost award consistent with the determination of substantial contribution.

LAWC then filed AL 104 on January 8, 2015 seeking recovery for the payment of \$43,180.24 from its ratepayers. RLAWC protested the AL. On February 10, 2015, the Division of Water and Audits (Division) issued a Disposition Letter approving the AL

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and on February 20, 2015, the Division issued a letter rescinding approval, rejecting AL 104, and directing LAWC to re-file its reimbursement request as a Tier III AL.

On March 3, 2015, LAWC complied with the directives from the Division and filed AL 105. On March 23, 2015, RLAWC and Paula and Bruce Orvis filed a Response and Partial Protest.

RESPONSE AND PARTIAL PROTEST

RLAWC's Response and Partial Protest requests that the surcharge requested by LAWC be assessed on a meter equivalent basis, instead of on a per capita basis as requested in AL 105.

On March 27, 2015, LAWC submitted a response to the RLAWC response/protest. LAWC argues against the two main points RLAWC presented; the rate design and rehearing applications. As to the rate design issue, LAWC contends that since all ratepayers benefitted from the contribution of RLAWC, all ratepayers should pay equally. The Division weighed this argument against the fact that LAWC's typical rate design is done on a meter equivalent basis and determined that it is reasonable to keep the surcharge collection consistent with the current rate design. The surcharge shall be collected on a meter equivalent basis.

The Division finds that RLAWC's argument has merit, and directs that the surcharge to collect the \$43,180.34 be assessed on a meter equivalent basis and be apportioned out on a monthly basis between the issuance of this Resolution and November 6, 2015.

Next, RLAWC requests that the Commission make this approval conditional on the outcome of its Applications for Rehearing since the outcome could affect the amount of the intervenor compensation award and the payer. On March 27, 2015, the Commission issued D.15-06-036. The Commission found there was no legal error to require LAWC to pay the intervenor compensation award. D.15-06-036 granted limiting rehearing to consider the merits of the determination that RLAWC made a substantial contribution on 25 percent of the matters it raised and to determine the appropriate out-of-pocket cost award consistent with the determination of substantial contribution. The Commission determined that the intervenor compensation award granted in D.14-11-016 would remain in effect, subject to adjustment depending on the outcome of the limited rehearing. Therefore, the Division does not allow the abeyance of either the payment or the collection of the \$43,180.34. It is appropriate that LAWC pay the

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compensation award to RLAWC (which it did on December 2, 2014), and collect from ratepayers that amount within one year from the date of the award (November 6, 2015). If the resolution of the limited rehearing granted in D.15-06-036 changes the amount of the award, LAWC is to make the appropriate adjustment to its tariffs and its ratepayers.

All other issues discussed by RLAWC in its Protest were carefully reviewed by the Division, but other than the two main points discussed above, no further changes to the Resolution are warranted.

DISCUSSION

As set forth above, AL 105 makes a simple request: LAWC seeks Commission authorization to treat the intervenor compensation award of \$43,180.34 it paid to RLAWC on December 2, 2014, pursuant to D.14-11-016, as an expense of the utility and to collect it from ratepayers within a year's timeframe from when the award was issued on November 6, 2014. LAWC followed the Commission's order in D.14-11-016 and it paid the award promptly to RLAWC. It is appropriate and reasonable for LAWC to collect that expense from its ratepayers. Pursuant to Public Utilities Code, Section 1807, absent any other provision of law, an intervenor compensation award is treated as an expense of the utility and shall be fully recovered within one year of the award through customer rates.

Because of the small customer base in LAWC, it is appropriate for LAWC to collect this surcharge over the course of the months remaining in the 12-months since the Commission issued D.14-11-016. And, based on the arguments presented by RLAWC in its Response/Protest to AL 105, the Division finds it is reasonable for this surcharge to be done on a meter equivalent basis, rather than on a per capita basis as suggested in the AL. Since the rate design for LAWC is on a meter equivalent basis, it is consistent to collect the surcharge in a similar fashion.

As also discussed above, in D.15-06-036, the Commission determined that limited rehearing of D.14-11-016 is granted to consider the merits of the determination that RLAWC made a substantial contribution on 25 percent of the matters it raised in the proceeding. The limited rehearing will determine the appropriate out-of-pocket cost award consistent with the determination of substantial contribution. If or when there is a future Commission Decision that impacts the amount of the compensation award, the Division directs LAWC to make appropriate adjustments to its tariffs and to its ratepayers consistent with those future Commission decisions.

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SAFETY

All AL filings are reviewed by the Division for any and all safety impacts implicated by the requests. The Division was mindful of this obligation as it reviewed AL 105 and is convinced that granting the requested rate recovery authorization has no impact on the safety of the operations of the water company or of its customers.

COMMENTS

Public Utilities Code Section 311(g)(1) provides that resolutions generally must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission.

Accordingly, this proposed resolution was mailed to the utility, the utility's service list, protestants, and made available for public comment on April 17, 2015. No comments were received.

FINDINGS AND CONCLUSIONS

1. Lake Alpine Water Company (LAWC) filed Application (A.) 11-04-013, Ratepayers of Lake Alpine Water Company (RLAWC) protested the application. In March 2013, the California Public Utilities Commission (Commission) issued Decision (D.) 13-03-007 resolving the application.
2. RLAWC filed an application for an award of intervenor compensation for its work and contribution to D.13-03-007. On November 6, 2014, the Commission issued D.14-11-016 granting RLAWC an award of \$43,180.34 (\$42,517.07 plus interest of \$663.27).
3. On December 2, 2014, LAWC paid RLAWC the sum of \$43,180.34.
4. Pursuant to Public Utilities Code Section 1807, an intervenor compensation award is treated as an expense of the utility and shall be fully recovered within one year of the award through customer rates.
5. On March 3, 2015, LAWC filed a Tier III Advice Letter (AL) seeking authorization to treat the \$43,180.34 it paid to RLAWC as a utility expense and to

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collect it through a surcharge apportioned from the date of this Resolution through November 6, 2015.

6. On March 23, 2015, RLAWC filed a Response/Protest to the AL asking that the surcharge be collected on a meter equivalent basis rather than on a per capita basis. The Division of Water and Audits (Division) finds that request reasonable; LAWAC shall collect the surcharge on a meter equivalent basis.
7. In its Response/Protest, RLAWC reminded the Commission that it has pending Applications for Rehearing that might affect the ultimate outcome of who is ordered to pay the compensation award amount and what that amount is. If there is any change in either the amount of compensation or the payer of the amount, LAWAC shall make the appropriate adjustments to its tariffs and its ratepayers by way of an informational Advice Letter filing.
8. The Commission issued D.15-06-036 and determined that limited rehearing of D.14-11-016 is granted to consider the merits of the determination that RLAWC made a substantial contribution on 25 percent of the matters it raised in the proceeding. The limited rehearing will determine the appropriate out-of-pocket cost award consistent with the determination of substantial contribution.
9. LAWAC submitted a new Tariff Rule Schedule No. 1A, Special Condition No. 5, to reflect the requested tariff changes. The Division approves the Tariff Rule with the caveat that it must accurately reflect that the award amount is to be collected on a meter equivalent basis and the number of months remaining between the date of this Resolution and November 6, 2015.
10. There are no safety related issues raised by this AL or addressed in this Resolution.

THEREFORE IT IS ORDERED THAT:

1. Lake Alpine Water Company's request in Advice Letter 105 to treat the \$43,180.34 intervenor compensation award it paid to Ratepayers of Lake Alpine Water Company on December 2, 2014, as a utility expense and to be allowed to fully recover that amount from its ratepayers by November 6, 2015 is approved.

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2. Lake Alpine Water Company is to recover the \$43,180.34 through a surcharge from its ratepayers on a meter equivalent basis consistent with existing rate design.
3. If the California Public Utilities Commission issues a Decision on the limited rehearing that changes the amount of the intervenor compensation award due the Ratepayers of Lake Alpine Water Company, Lake Alpine Water Company is ordered to make appropriate changes to its tariff and to its ratepayers.
4. Lake Alpine Water Company's proposed Tariff Rule Schedule 1A, Special Condition #5 is approved and it must be changed to reflect the order that the surcharge be collected on a meter equivalent basis and that it be collected between the effective date of this Resolution and November 6, 2015.
5. This Resolution is effective today.

I certify that the foregoing Resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on June 25, 2015; the following Commissioners voting favorably thereon:

TIMOTHY J. SULLIVAN
Executive Director

CERTIFICATE OF SERVICE

I certify that I have by either electronic mail or postal mail, this day, served a true copy of Proposed Resolution No. W-5038 on all parties in these filings or their attorneys as shown on the attached lists.

Dated April 17, 2015, at San Francisco, California.

/s/DANIEL SONG

Daniel Song

Parties should notify the Division of Water and Audits, Third Floor, California Public Utilities Commission, 505 Van Ness Avenue, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the Resolution number on which your name appears.

LAKE ALPINE WATER COMPANY

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